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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/070,497

07/19/2002

Pieter Van Dalen

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EXAMINER

DALENCOURT, YVES

ART UNIT

PAPER NUMBER

2157

MAIL DATE

DELIVERY MODE

01/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/070,497	<b>Applicant(s)</b> VAN DALEN, PIETER	
	<b>Examiner</b> Yves Dalencourt	<b>Art Unit</b> 2157	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 9-12, 14-18 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9-12, 14-18, and 20-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This office action is responsive to amendment filed on 11/05/2007.

#### ***Response to Amendment***

The Examiner has acknowledged Applicant's response.

#### ***Response to Arguments***

Applicant's arguments filed on 11/05/2007 have been fully considered but they are not persuasive.

Regarding Applicant's argument (page 9, first paragraph), that Ho fails to disclose a method for establishing e-mail communication and sending e-mail through a PSTN "without the need of being connected to the Internet.". The Examiner agrees with Applicant's assertion, and such argument is moot because the Examiner is aware that Ho teaches all the limitations in the claims, except for establishing such communication "without the need of being connected to the Internet".

In response to Applicant's argument (pages 9 and 10), that there is no suggestion from the reference that there is a direct PPP connection through the PSTN between sender and receiver. The Examiner respectfully disagrees with Applicant's comment. First of all, Ho already discloses the claimed invention, except for establishing e-mail communication "without the need of being connected to the Internet". The Examiner provides the Tiller reference to show that such e-mail communication can be established through a PSTN " **without the need of being connected to the**

**Internet** " (see col. 3, line 55 through col. 4, line 2; co. 5, lines 7 – 12; and col. 7, lines 20 – 35).

In response to applicant's argument (page 11) that there is no suggestion to modify/combine the references, the examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. In re Nomiya, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosure taken as a whole would suggest to one of ordinary skill in the art. In re McLaughlin, 170, USPQ 209 (CCPA 1971). references are evaluated by what they suggest to one verse in the art, rather than by their specific disclosures.

In fact, it appears that Applicants are interpreting the claims very narrow without considering the broad teaching of the reference used in the rejection.

Applicants are reminded that the examiner is entitled to the broadest reasonable interpretation of the claims. The Applicants always have the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater 162 USPQ 541, 550-51 (CCPA 1969).

In view of such, the rejection is maintained and repeated as follows:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 3, 9 - 12, 14 - 18, and 20 - 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ho et al (US 5,805,298; hereinafter Ho) in view of Tiller et al (US 5,568,536; hereinafter Tiller).

Regarding claim 1, Ho teaches a method for establishing e-mail communication between which both have access to the Public Switched Telephone Network, without the need of being connected to the Internet (fig. 1), further comprising the steps of establishing the data link, and PPP connection between the sender and receiver application (col. 3, lines 36 - 43); and transferring the e-mail message (s) to receiver device over TCP/IP (col. 3, lines 43 - 47).

Ho teaches substantially all the limitations, but fails to specifically teach the idea of establishing e-mail communication between a sender device and a receiver device over PSTN without the need of being connected to the Internet.

However, Tiller teaches in an analogous art, the idea of having an e-mail communication to be conducted over the PSTN without the need of being connected to the Internet (see abstract; col. 7, lines 20 - 35).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Ho by establishing e-mail communication

between a sender device and a receiver device over PSTN without the need of being connected to the Internet as evidenced by Tiller for the purpose of sending and receiving e-mail through an existing communication network system other than the Internet, thereby saving resources and saving time.

Regarding claims 2, 9 - 10, 20, and 22 - 24, Ho and Tiller teach all the limitations in claim 1, and Ho further teaches a method according to claim 1, further comprising the steps of composing one or more electronic mail messages on the sender device through a graphical user interface (GUI) application (col. 4, lines 7 - 42; col. 5, line 15 through col. line 23); setting up a telephone connection and data link from the sender device to receiver device; accepting an electronic mail message from the sender device by the receiver device; storing an electronic mail message on the receiver device (col. 4, line -42; col. 5, line 15 through col. 6, line 23); terminating the data link and telephone connection(c, 4, lines 7 - 42; col. 5, line 15 through col. 6, line 23); perceptibly indicating that an electronic mail message has been received by the receiver device; and visually presenting the electronic mail message, including attached files, by a graphical user interface (GUI) application on the receiver device (col. 4, lines 7 - 42; col. 5, line 1 through col. 6, line 23).

Regarding claim 3, Ho and Tiller teach all the limitations in claim 1, and Ho further teaches the step of retrieving the telephone number of the receiver device from a database (col. 6, lines 58 - 60; col. 7, lines 6 - 17).

Claims 11 and 12 substantively incorporate the limitations of claim 9. The reason for the rejection 9 applies to claims 11 and 12.

Regarding claim 21, the Examiner takes Official Notice that using an RS-232 interface is well known in the art. (see cited reference US 6,934,862).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yves Dalencourt whose telephone number is (571) 272-3998. The examiner can normally be reached on M-TH 7:30AM - 6:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272 4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 16, 2008

  
YVES DALENCOURT  
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